

**Critical Area Commission
Chesapeake and Atlantic Coastal Bays**
Meeting held via Google Meet

September 19, 2025

Program Implementation Committee Minutes

Committee Members in Attendance: *Bunker (Chair), McCall (Co-Chair), Adams, Bland, Burris, Herr-Cornwell, Etherton, Gerthoffer, Mulkey, Rodvien, Wilson*

1. Welcome and Roll Call:

- Steve Bunker, Committee Chair, welcomed all attendees. Charlotte Shearin confirmed a quorum.
- The meeting was streamed live to the public, and captioned minutes would be made available on the Commission's website.

2. Approval of August 8, 2025 Program Implementation Committee Minutes

Commissioner Wilson asked for the minutes to be amended to reflect his comments about golf courses and the issue with impervious surfaces and the lack of wildlife habitat, as well as use of pesticides and herbicides.

- Motion to Approve with amendment: McCall
- Second: Burris
- Vote: The minutes were approved unanimously.

3. REFINEMENT – MOTION REQUIRED: Town of Snow Hill – Comprehensive Review

Presenter: Katie Hayden. Recommend Concurrence with the Chair's determination of refinement; Approval with conditions.

Ms. Hayden presented in accordance with the staff report, the contents of which are incorporated into and made part of the minutes. The Town of Snow Hill has approved its comprehensive update to the Town's Critical Area program as required by State law. The Town last updated their Critical Area program in 2012.

Discussion:

Commissioner Wilson: Repeated previous concerns about impervious services in golf courses, but admitted it probably is not too important in this case, since Snow Hill is too small for a golf course. He also had concerns about the potential allowance of solid waste or sludge facilities. Ms. Hayden and Ms. Shearin explained that the language he was referencing came directly from the Model Ordinance and COMAR regulations.

Commissioner Wilson additionally mentioned the removal of trees and how dead trees are good food sources and habitat for wildlife. Ms. Hayden thanked him for his comments and said they could revisit them in future updates.

Motion to concur: Commissioner Rodvien requested a motion to concur with the Chair's determination of refinement and to approve with conditions. Commissioner Etherton seconded. **Motion passed unanimously.**

4. INFORMATION ONLY: Options to Allow Intensification of Uses within the Resource Conservation Area

Presenters: Susan Makhlof and Charlotte Shearin

Commission staff are requesting guidance regarding options that local jurisdictions can use to allow for an intensification or a change in use within the Resource Conservation Area (RCA). Committee is asked to consider a balance of accommodating development with maintaining RCA characteristics, applying new uses/standards across jurisdictions, and considering cases where neither option is appropriate.

Discussion: Chair Fisher suggested exploring options like a new category or overlay for "legacy establishments" in RCA to allow reasonable expansion without creating new growth poles due to adjacency requirements. He also asked for commissioner input on restructuring staff reports to address the presented questions. Commissioner Rodvien inquired about the finite nature of growth allocation. Ms. Shearin explained it's 5% of a jurisdiction's total RCA acreage at program adoption.

Commissioner Bunker clarified that RCA use text amendments do not change the land designation from RCA to IDA, and maintain RCA development requirements (e.g., 15% lot coverage). They also do not create an "anchor" for future changes in designation.

Commissioner Herr-Cornwell asked if approving a text amendment for one jurisdiction sets a precedent for others, and if mechanisms exist to limit the use of recent growth allocations from creating anchors. Ms. Shearin confirmed that alternative language can limit the use of growth allocations as anchors, and that while there's an assumption of allowing similar uses across jurisdictions, the Commission can tailor approvals.

Commissioner Bunker asked if staff keep a compilation of text amendments and growth allocations. Ms. Shearin stated this is a work plan item for the program implementation and education team. Commissioner Wilson emphasized the importance of adjacency, questioned the 20-acre minimum for growth allocation in tiny municipalities, and expressed curiosity about the allowance of religious institutions in the RCA. He also suggested a "reset" to re-evaluate what's allowed in the RCA to align with its original legislative intent for wildlife habitat and naturalization.

Commissioner McCall emphasized incorporating resilience and climate risk into decisions, suggesting broader context in staff reports regarding long-term outcomes and landscape-level risks for individual growth allocations or changes. Chair Fisher noted that changes to staff reports related to these considerations will be implemented in the short term, and the opportunity to incorporate climate and equity into regulations will be explored in the midterm.

5. INFORMATION ONLY: St. Mary's County RCA Use Text Amendment (Day Care, Non-Medical)

Presenter: Michael Macon

Mr. Macon presented in accordance with the staff report. St. Mary's County is seeking preliminary feedback regarding a proposed text amendment to allow day cares (non-medical) as an allowed use in the Resource Conservation Area (RCA). A property owner has petitioned the Commissioners of St. Mary's County to amend the County's Comprehensive Zoning Ordinance to allow "Day Care, Non-Medical" (Use Type 28) in the Resource Conservation Area (RCA) Critical Area Overlay District. This new RCA use is proposed to impact one property at this time; however, it could potentially apply to a number of properties throughout the RCA in the County.

Discussion:

Chair Fisher commented there is no upper limit proposed for the number of children who would attend, and no functional limit associated with the size of the building. Dave Weigel, lawyer for the applicant, said 35 square feet is required for each child per COMAR 13A 16.05.03. The limit could be presented when the project comes back before the Commission.

Commissioner Rodvien stated it feels like the equitable distribution of burdens and benefits language will apply to this specific project because it is proposed to be a Headstart program, but may not apply to all day cares in the future. St. Mary's staff said there may be other programs out there that are run by nonprofits that would benefit the communities. St. Mary's staff has concerns about how to measure if a neighborhood is underserved, lacking public transportation, or lower income level; it would be hard to administer the program. John Houser, St. Mary's County's attorney, said they thought about these issues; however, St. Mary's County is a non-charter county, it is subject to the Land Use Article's uniformity requirement.

Commissioner Bunker asked if we would know about any additional clearing or lot coverage implications for the required new playground and additional disabled parking. The County staff said they would probably not have that information before this comes back to the Commission for vote. The client's attorney, Mr. Weigel, said he could talk to his clients for cost estimates, etc.

Commissioner Gerthoffer stated that with this specific property, it seems that they are going to use the existing building, but the day care needs a playground and additional parking. Does the wording for the proposed ordinance only address the existing building for the day care? Commissioner Gerthoffer proposed adding "permitted" to existing buildings and the actual date for the limited standards language.

Executive Director Nick Kelly noted that this text amendment would apply across the County. Does the County have an estimate of how many properties this could apply to? The County said there are about 5,000 RCA properties, and 2,500-3,000 have existing buildings

on them, but only a handful of those would be able to be used for this type of use for other reasons. Commissioner Burris described St. Mary's as a peninsula with 500 miles of waterfront. Mr. Weigel addressed the equity requirement for this property and said the area near this proposed day care is very rural and not having local childcare is a large imposition on the families in the area.

Commissioner Bunker said the ordinance is clear that the use is restricted to existing buildings, but it does not mention requirements for playgrounds and parking. Mr. Macon said they would still be limited to the RCA development requirements (e.g. 15% lot coverage), and this specific property is legally nonconforming and would need to get a variance for any additional lot coverage. Mr. Houser offered the options available if the properties exceed lot coverage, as defined in St. Mary's code (e.g. abandon plans, remove existing lot coverage, variance, etc.). Attorney Weigel stated that with the limits of using legally existing buildings combined with the required square footage for each child, the number of properties this text amendment would apply to is probably pretty low.

Chair Fisher said the discussion would be summarized and that staff would get back to the County with our impressions of today's discussion and next steps.

Next meeting of the Project Committee will be on October 24, 2025.